

Appl. No. 09/854,812  
Amdt. dated November 2, 2005  
Reply to Office Action of August 8, 2005

### REMARKS

Applicant has carefully reviewed the Office Action mailed on August 8, 2005. Applicant respectfully traverses all objections, rejections, and assertions made by the Examiner. With this Amendment, claims 42, 43, 46, 52, 53, 56, and 60 are amended. Claims 42-61 remain pending.

Applicant wishes to thank the Examiner for the telephone conference on October 28, 2005. During the telephone conference, the rejection of claims 42-45, 47, 49-55, 57, 59, and 60 in view of Kozak et al. was discussed. Applicant proposed an amendment to the independent claims (42, 52, and 60) whereby each would recite a tubular sheath extension that longitudinally separates the first handle and the second handle. Applicant believes that these amendments distinguish the claimed invention from Kozak et al. The Examiner agreed that such an amendment would distinguish these claims from Kozak et al.

Claims 42-45, 47, 49-55, 57, 59, and 60 are rejected under 35 U.S.C. §102(b) as being anticipated by Kozak et al. in U.S. Patent No. 5,006,295. Independent claims 42, 52, and 60 are all amended to recite a tubular sheath extension that longitudinally separates the first handle from the second handle. Claims 43 and 53 are amended to be consistent with claims 42 and 52, respectively. Kozak et al. do not teach or disclose this limitation. Accordingly, amended claims 42, 52, and 60 are all believed to be patentable over Kozak et al. Because claims 43-45, 47, and 49-51 depend from claim 42 and because claims 53-55, 57, and 59 depend from claim 52, these claims are also allowable over Kozak et al. based on this amendment and because they add significant elements to distinguish them further from the art.

Claims 47, 48, 57, and 58 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kozak et al. in view of Nakao et al. in U.S. Patent No. 5,759,187 and Ouchi in U.S. Patent No. 6,117,141. Claims 42 and 52 are amended as described above and are believed to disclose a limitation that is not taught or disclosed by Kozak et al. Neither Nakao et al. nor Ouchi fail to cure this deficiency. Accordingly, claims 42 and 52 are believed to be patentable over the cited references. Because claims 47-48 depend from claim 42 and because claims 57-58 depend from claim 52, these claims are also patentable based on the amendments to claims 42 and 52, and because they add significant elements to distinguish them further from the art.

Claims 42-61 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-39 of U.S. Patent No. 6,235,026.

Appl. No. 09/854,812  
Amdt. dated November 2, 2005  
Reply to Office Action of August 8, 2005

Applicant responds to this rejection by enclosing herewith a Terminal Disclaimer in compliance with 37 CFR 1.321(c). Although not conceding the merits of this rejection, Applicant respectfully submits that the Terminal Disclaimer overcomes this rejection, as such filing has no effect on patent term.

Please note that the only rejection of claims 46 and 56 is based on the double patenting rejection. Therefore, each of these claims is amended into independent form, and both are believed to be in condition for allowance in view of the Terminal Disclaimer.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Kevin W. Smith

By his Attorney,

Date: 11/2/05



David M. Crompton, Reg. No. 36,772  
CROMPTON, SEAGER & TUFTE, LLC  
1221 Nicollet Avenue, Suite 800  
Minneapolis, MN 55403-2420  
Telephone: (612) 677-9050  
Facsimile: (612) 359-9349